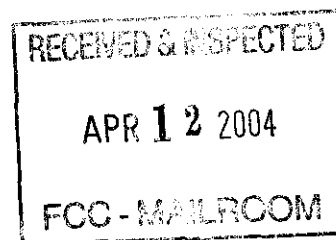


Thursday, April 08, 2004

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743



Re: **CC Docket No. 02-6**
Request for Review

Letter of Appeal for:

Funding Commitment Denial of FRNs: **1043518**

Form 471 Application Number: **378724**

Billed Entity Number: **141745**

Funding year 2003: **07/01/2003 – 06/30/2004**

Decision Explanation: **Telecommunications Service is
from a provider that does not provide telecommunications
on a common carriage basis.**

Date of SLD's Decision on Appeal: February 12, 2004
(see attachment)

Applicant Information: Texas State Library and Archives Commission

Manuel Alvarez
1201 Brazos St
Austin, TX 78701
(512) 463-5481
malvarez@tsl.state.tx.us

Commission Chairman
Sandra J. Pickett

Members
Chris A. Brisack
Diana Rae Hester Cox
Martha Doty Freeman
Cruz G. Hernandez
Sandra G. Holland
Elizabeth Sanders

Director and Librarian
Peggy D. Rudd

Assistant State Librarian
Edward Seidenberg

The Texas State Library and Archives Commission is appealing the Schools and Libraries Division's decision to deny funding for FRN 1043518. The decision to deny was based on a determination that the provider, Department of Information Resources (DIR), does not provide telecommunications on a common carriage basis.

In actuality, our telecommunications service is provided by SBC, Southwestern Bell Telephone Company (SPIN: 143004662). The Department of Information Resources simply acts as the contract manager for all state agencies. SBC is an eligible telecommunications service provider as defined by 47 C.F.R. § 54.5(g), (h). Attached you

*Making
information
work
for all
Texans*

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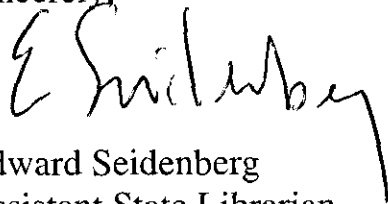
will find the invoices for our SBC service which we obtained from the Department of Information Resources.

The SLD's decision asserts that the Texas State Library and Archives Commission failed to demonstrate that the telecommunications provider that was selected on Form 471 (#378724) was eligible. Attached you will find a letter of support from the Department of Information Resources supporting the Texas State Library and Archives Commission's assertion that the Form 471 incorrectly listed the Department of Information Resources as the service provider rather than SBC.

The Texas State Library and Archives Commission respectfully requests the reconsideration of the Schools and Libraries decision to deny funding for FRN 1043518 based on an invalid telecommunications provider. The reason for denial becomes irrelevant when the correct service provider is considered in the decision.

Please do not hesitate to contact us if you need further information.

Sincerely,

A handwritten signature in black ink, appearing to read "E Seidenberg", written over the printed name.

Edward Seidenberg
Assistant State Librarian
(512) 463-5459



Universal Service Administrative Company
Schools & Libraries Division

TEXAS STATE LIBRARY & ARCHIVES COMMISSION
LIBRARY DEVELOPMENT DIVISION
FEB 18 2004

Administrator's Decision on Appeal - Funding Year 2003-2004

February 12, 2004

Edward Seidenberg
Texas State Library and Archives Commission
1201 Brazos St.
Austin, TX 78701

HUMAN RESOURCES

FEB 18 2004
RECEIVED

Re: Billed Entity Number: 141745
471 Application Number: 378724
Funding Request Number(s): 1043518
Your Correspondence Dated: August 12, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2003 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 1043518
Decision on Appeal: **Denied in full**
Explanation:

- In your letter of appeal, you acknowledged that the cited provider, Department of Information Services, does not provide telecommunications on a common carriage basis. The letter asserted that, as a state agency, you are bounded by state procurement rules and regulations to purchase telecommunication services through the Department of Information Resources, which acts as a liaison for all state agencies. You also pointed out that the Department of Information Resources participates as a vendor in the E-rate program, and therefore has a SPIN. You noted that, in actuality the service comes from SBC, Southwestern Bell Telephone Company, which is a valid provider (SPIN 143004662). Your letter concluded by requesting approval of the FRN based on this information, and the attached supporting documentation from the Department of Information Resources.

- Your Form 471 indicates that you selected an ineligible telecommunications provider: Department of Information Resources - Telecommunication Svcs. (SPIN 143005581). FCC regulations provide that only telecommunications carriers are eligible for universal service support. See 47 C.F.R. § 54.501(a). FCC regulations define telecommunications carriers as any provider of telecommunications services, and telecommunications services as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 C.F.R. § 54.5(g), (h). Because this mirrors the common law definition of a "common carrier," the FCC has determined that to be eligible to receive universal service support, the provider must provide telecommunications services on a common carrier basis. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157 ¶ 134 (rel. May 8, 1997).
- SLD's review of your application determined that the telecommunications provider you selected, Department of Information Resources - Telecommunication Svcs. (SPIN 143005581), is not eligible to receive universal service support because it does not provide telecommunications services on a common carrier basis. You did not demonstrate in your appeal that the telecommunications provider you selected is an eligible provider. Consequently, SLD denies your appeal.
- There is no indication in your original submission that the service comes from any provider other than the provided noted in your Form 471 application and supporting documentation. SLD cannot accept new information on appeal that is inconsistent with the supporting information used during review unless there was an error by SLD.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Account Number
055-017-6555-001-3
August 05, 2003

Page 6 of 8

Itemized Charges	Item Explanation	Amount
	SBC Adv. Solutions Account 0450066169	
	CKT 45.YHFJ.000285.001.	
1	07/29 TEXAN ATM UNI 6.0MBPS	1530.00
	Subtotal for 45.YHFJ.000285.001.	1530.00
	Account Subtotal for 0450066169	1530.00
	SBC Adv. Solutions Account 0450066287	
	CKT 45.HXFM.004523..SUV	
2	07/29 TEXAN FRAME TO ATM SVC	10.00
3	07/29 TEXAN FRAME 512K ACC LNK	104.00
4	07/29 TEXAN FRAME 512K PORT	121.00
5	07/29 TEXAN FRAME 512Kbps PVC	18.00
	Subtotal for 45.HXFM.004523..SUV	253.00
	Account Subtotal for 0450066287	253.00
	SBC Adv. Solutions Account 0450066457	
	CKT 45.HXFM.004566..SUV	
6	07/29 TEXAN FRAME TO ATM SVC	10.00
7	07/29 TEXAN FRAME 512K ACC LNK	104.00
8	07/29 TEXAN FRAME 512K PORT	121.00
	Subtotal for 45.HXFM.004566..SUV	235.00
	Account Subtotal for 0450066457	235.00
	SBC Adv. Solutions Account 0450066459	
	CKT 45.HXFM.004568..SUV	
9	07/29 TEXAN FRAME TO ATM SVC	10.00
10	07/29 TEXAN FRAME 512K ACC LNK	104.00
11	07/29 TEXAN FRAME 512K PORT	121.00
	Subtotal for 45.HXFM.004568..SUV	235.00
	Account Subtotal for 0450066459	235.00
	SBC Adv. Solutions Account 0450066460	
	CKT 45.HXFM.004569..SUV	
12	07/29 TEXAN FRAME TO ATM SVC	10.00
13	07/29 TEXAN FRAME 512K ACC LNK	104.00
14	07/29 TEXAN FRAME 512K PORT	121.00
	Subtotal for 45.HXFM.004569..SUV	235.00
	Account Subtotal for 0450066460	235.00
	SBC Adv. Solutions Account 0450066468	
	CKT 45.HXFM.004571..SUV	
15	07/29 TEXAN FRAME TO ATM SVC	10.00
16	07/29 TEXAN FRAME 512K ACC LNK	104.00

Austin

AUSTIN

Corpus

Brownsville

EL PASO

Abilene

SBC Adv. Solutions
Billing Questions:
1-800-559-7928

Account Number
055-017-6555-001-3
August 05, 2003

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Page 7 of 8

Itemized Charges
(Continued)

Item Explanation	Amount
17 07/29 TEXAN FRAME 512K PORT	121.00
Subtotal for 45.HXFM.004571..SUV	
Account Subtotal for 0450066688	235.00
SBC Adv. Solutions Account 0450066684	235.00
CKT 45.HXFM.004633..SUV	
18 07/29 TEXAN FRAME TO ATM SVC	10.00
19 07/29 TEXAN FRAME 512K ACC LNK	104.00
20 07/29 TEXAN FRAME 512K PORT	121.00
21 07/29 TEXAN FRAME 512KBPS PVC	18.00
Subtotal for 45.HXFM.004633..SUV	
Account Subtotal for 0450066688	253.00
SBC Adv. Solutions Account 0450066688	253.00
CKT 45.HXFM.004636..SUV	
22 07/29 TEXAN FRAME TO ATM SVC	10.00
23 07/29 TEXAN FRAME 512K ACC LNK	104.00
24 07/29 TEXAN FRAME 512K PORT	121.00
CKT 45.HXFM.004636..SUV- 2	
25 12/31 FRACTIONAL MTHLY CHARGES	124.80cr
Subtotal for 45.HXFM.004636..SUV	
Account Subtotal for 0450066688	110.70
SBC Adv. Solutions Account 0450066689	110.70
CKT 45.HXFM.004637..SUV	
26 07/29 TEXAN FRAME TO ATM SVC	10.00
27 07/29 TEXAN FRAME 512K ACC LNK	104.00
28 07/29 TEXAN FRAME 512K PORT	121.00
29 07/29 TEXAN FRAME 512KBPS PVC	18.00
Subtotal for 45.HXFM.004637..SUV	
Account Subtotal for 0450066689	253.00
Total Itemized Charges for SBC Adv. Solutions (before taxes)	3339.20
**New services provided and billed	

Amarillo

SAN ANTONIO

Lubbock 2

For Your Information

SBC Adv. Solutions
Billing Questions:
1-800-559-7928

Attention Customers of SBC Advanced Solutions, Inc. (SBC-ASI): Beginning 06/23/03
SBC-ASI will change the way FUSF is applied by using a percent of revenue and
displaying the fee as a separate line on the bill. In addition, the surcharge now applies to
recurring and non recurring charges.

Account Number 057-025-1935-001-2
August 05, 2003

Itemized Charges

Item Explanation	Amount
SBC Adv. Solutions Account 0450066686	10.00
1 07/29 CMT 45, HXFM, 004635, .SUV	104.00
2 07/29 TEXAN FRAME 512K ACC LNK	121.00
3 07/29 TEXAN FRAME 512K PORT	18.00
4 07/29 TEXAN FRAME 512KBPS PVC	253.00
Subtotal for 45, HXFM, 004635, .SUV	253.00
SBC Adv. Solutions Account 0450066686	253.00
5 07/29 CMT 45, HXFM, 005267, .SUV	10.00
6 07/29 TEXAN FRAME 512K PORT	263.00
Subtotal for 45, HXFM, 005267, .SUV	273.00
Account Subtotal for 04500667333	273.00
Total Itemized Charges for SBC Adv. Solutions (before taxes)	526.00

Gallard

Enliss

For Your Information

Attention Customers of SBC Advanced Solutions, Inc. (SBC-ASI): Beginning 06/23/03 SBC-ASI will change the way FUSF is applied by using a percent of revenue and displaying the fee as a separate line on the bill. In addition, the surcharge now applies to recurring and non-recurring charges.

SBC Adv. Solutions
Billing Questions:
1-800-559-7928

Account Number
056-021-8351-001-3
August 05, 2003

Page 6 of 6

Itemized Charges	Item Explanation	Amount
	SBC Adv. Solutions Account 0450066458	
	CK: 45.HXFM.004567..SUV	
1 07/29	TEXAN FRAME TO ATM SVC	10.00
2 07/29	TEXAN FRAME 512K ACC LNK	104.00
3 07/29	TEXAN FRAME 512K PORT	121.00
	Subtotal for 45.HXFM.004567..SUV	235.00
	Account Subtotal for 0450066458	235.00
	Total Itemized Charges for SBC Adv. Solutions (before taxes)	235.00
	**New services provided and billed	235.00

Houston

For Your Information

Attention Customers of SBC Advanced Solutions, Inc. (SBC-ASI): Beginning 06/23/03 SBC-ASI will change the way FUSR is applied by using a percent of revenue and displaying the fee as a separate line on the bill. In addition, the surcharge now applies to recurring and non-recurring charges.

SBC Adv. Solutions
Billing Questions:
1-800-559-7928

From: Sherri Parks [sherri.parks@dir.state.tx.us]
To: mjohnson@tsl.state.tx.us
Subject: E-rate

Marilyn,

As the provider of the State of Texas' Telecommunications and data communications services, many of our provided services are e-rate eligible. Because a state network does not actually pay money into the E-rate program, the SLD will only recognize state networks for Internet access and not Telecommunications services. However, because the State of Texas buys the services that comprise the state network from eligible Telecommunications providers, entities that buy these services from DIR would need to list the ultimate end provider's SPIN number, in your case SBC, for Telecommunication's Services.

Since I have been the E-rate contact since the E-rate program began, I have seen many of our customers list our SPIN for Telecommunications Services. As long as the State Library posted its desire to procure these services on the SLD's website, you should use SBC's SPIN number 143004662.

Thanks,
Sherri

Sherri Parks
Assistant Director, Telecommunications Services Division
Department of Information Resources
(512) 463-3580 office
(512) 463-3304 fax